



A Publication of the
DEPARTMENT OF REGULATION AND LICENSING
FOR AUCTIONEERS AND AUCTION COMPANIES

Volume 5, No. 2

September, 2000

A Message From the Board Chair Richard Lust

On July 24, 2000 the Auctioneer Board and the Department conducted a hearing on an administrative rule proposal that addresses three issues. They are: a correction of several minor errors, shortening the length of time during which a person may hold a temporary registration certificate and the development of guidelines for registrants concerning the activities they may or may not perform during the period of a suspension or revocation of their registration.

The Board had recommended several months ago that the temporary registration be abolished. However, any statutory changes will have to wait for the 2001-2002 legislature to commence its work. Therefore, the Board recommended that the administrative rules be amended to shorten the length of time during which temporary registrations are valid. Temporary registrations would be valid for no more than 60 days, rather than the current 360 days.

New rules could be effective within a month or two. We will publish them in the next issue of the Regulatory Digest.

As for abolishing the temporary permit or shortening the time for holding a temporary permit, please note that the last issue of the Regulatory Digest listed the reasons why the Board recommended these changes. I believe that the two primary reasons are: first, that the tests were originally administered yearly; whereas, now they are given weekly, Tuesday through Saturday. Secondly, many of the temporary registrants come into Wisconsin to conduct one or two auctions and don't ever take the exam.

As for clearer guidelines, relating to suspensions and revocations, the Board received many questions from auctioneers who were disciplined, from other auctioneers and from the public about the auction-related activities auctioneers may perform during their suspension or revocation. Thus, the Board concluded that the most effective way to provide clear and enforceable guidelines would be to develop new administrative rules.

Reciprocal Agreements With Other States

The Department of Regulation and Licensing and the Auctioneer Board have entered into reciprocal licensing agreements with the following states: Illinois, Kentucky, North Carolina, Tennessee and Texas. Arkansas will be next on the list.

THE WISCONSIN AUCTIONEER BOARD

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Proposed Rules Regarding Auction-related Activities During a Suspension or Revocation

The rules, below, are under consideration by the Board and the Department. If adopted, the final rules will be printed in the next issue of the Digest.

RL 126.03 (title) EFFECT OF SUSPENSION OR REVOCATION ON REGISTRANT. (1) An auctioneer or auction company whose registration has been suspended or revoked shall notify all persons with whom the auctioneer or auction company has a contract for services to be performed during the period of suspension or following revocation. The notice shall be in writing, state that the registration of the auctioneer or auction company has been suspended or revoked and describe the terms of the suspension or revocation.

(2) An auctioneer or auction company whose registration has been suspended or revoked by the board may not engage in the following activities during the term of the suspension or revocation:

(a) Call an auction by calling for, recognizing, or accepting offers for the purchase of goods or real estate at an auction.

(b) Advertise, represent or otherwise hold out as being available to call or manage an auction.

(c) Advertise, represent or otherwise hold out as being an auctioneer or auction company or use the title "auctioneer," "registered auctioneer," "certified auctioneer," "licensed auctioneer," "auction company," "auction sales staff," "auction team member" or any similar title.

(d) Solicit, negotiate or enter into any auction contract, auction listing, auction consignment, or related auction agreement, including assisting or aiding another registrant to perform auction-related duties.

(e) Perform, manage or supervise any of the following:

1. Call for bids at any type of auction, including auctions under s. 480.02 (2) (a) to (h), Stats.

2. Oversee, in any manner, the conducting of any auction.

3. Accept any form of referral fee, finder's fee, commission, commission sharing or splitting, or related compensation from any auctioneer, auction company, or auction-related professional.

4. Participate in any form of auctioneer-related bid-calling.

5. Suggest or imply to the public, privately or through advertising, that he or she is able to perform any of the activities in subds. 1. to 5.

(3) An auctioneer or auction company may not employ, retain or otherwise utilize an auctioneer or auction company whose registration has been suspended or revoked to perform any auction-related activity described in sub. (2). This section does not prohibit an auctioneer or auction company from contracting to perform services that an auctioneer or auction company is unable to perform because of a registration suspension or revocation and which the auctioneer or auction company

contracted to perform prior to the license suspension or revocation.

Statistics

As of August 18, 2000, the number of active registered auction companies and auctioneers was:

Temporary Auctioneer Registrations:	57
Auctioneers:	969
Auction Companies:	182

Legislative Changes

The Department, with the recommendation of the Board, had proposed legislation drafted that would permit auctioneers to abbreviate "registered Wisconsin auctioneer" in their ads. The legislative bill draft, Assembly Bill 437, was introduced by Representative Lorraine Seratti's Committee on Small Business and Economic Development, and the companion bill, Senate Bill 224, was introduced by Senator James Baumgart's Committee on Labor. Unfortunately, both bills died due to the session ending for legislation to be acted upon by the legislature.

Also drafted this session was a legislative proposal that would permit individuals under 18 years of age and not credentialed to call auctions under certain circumstances. This bill draft did not get introduced this session.

The Department and Board plan to pursue both legislative proposals in the upcoming 2001-2002 legislative session.

Renewal of Registration

Registration renewal forms will be mailed to all registered auctioneers (except those holding a temporary permit) at least 6 weeks before the December 31, 2000, expiration date.

If you wish to renew on time and not be subjected to a \$25 late filing fee, you must submit your renewal application and fee to the Department by December 31, 2000. **There are no continuing education requirements for this renewal.** The renewal fee for auctioneers will be \$135; the fee for auction companies will be \$47.

Complaints and Investigations

The following summaries of 3 cases will give you a flavor of the complaints received by the Board and may motivate you to be more careful in similar situations. Note that these summaries are as brief as possible and they do not describe all of the investigative activities that occurred.

Allegation: The Board received information that a registered auctioneer's license in another state was placed on probation for 3 years because he had failed to report to that state that disciplinary action had been taken against his license in another state. The investigation included contacts with the 2 other states and with the auctioneer.

Conclusion: Closed for prosecutorial discretion. There may have been a violation, but the Board has taken action in regard to this auctioneer that addresses the conduct and makes further action unnecessary. (Since the registrant's registration in Wisconsin had expired at the end of 1998,

he will have to complete the 9 hours of continuing education, required during 1997-98, in order to renew.)

Allegation: A registered auctioneer stated on his renewal application that he had completed the required continuing education, believing that the 12 hours of continuing education he obtained in another state would be acceptable. It is possible that a licensing staff person may have given him that information.

Conclusion: There may have been a violation, but because the person or entity in question is no longer actively practicing or does not have a current credential to practice, a decision was made to close the case and to place a "flag" on the credential. In the event that the person is located, and application for renewal of the credential is received or the credential is renewed, the case may be reopened and reconsidered.

Allegation: Complainant alleges unprofessional activity, misleading advertising and failure to write and address all of the required issues in the contract for the sale, such as any restrictions relating to conducting the auction and a statement indicating whether the registrant was authorized to purchase at auction. The seller requested that the auction not be advertised as an estate auction, because other items were going to be included in the sale. However, the advertisement was already at the printer when this request was made. The auctioneer, did, however, announce at the beginning of the sale that there were a few consigned items. The seller complained that some items of value (e.g. Depression Glass) were simply thrown into boxes and sold as "a bid of choice." The investigation indicated that items to be sold may have been in poor condition. Also, members of the auction crew did bid and buy items at the sale.

Conclusion: There may have been a violation which is more significant than a minor or technical violation, but not a violation which caused serious harm, and a determination has been made that the expenditure of resources required to pursue the violation would greatly exceed the value to the public of having the matter pursued. The Board observed that simply marking the ticket "choice" does not adequately show what was sold.

Disciplinary Actions

MARTIN I. DAVIS

PITTSBURGH PA

COSTS/FORFEITURES

Inadvertently answered "no" to a question on his application relating to having disciplinary action taken against him by any licensing authority. North Dakota had suspended his license for six months. Effective 3/27/2000. Sec. 480.24(2)(a), Stats. RL 126.02(10) Case #LS0003272AUC

HARRY DAVIS AND COMPANY

PITTSBURGH PA

COSTS/FORFEITURES

Inadvertently answered "no" to a question on the application relating to having disciplinary action taken against the license by any other licensing authority. North Carolina had suspended the license for six months. Effective 3/27/2000. Sec. 480.24(2)(a), Stats. RL 126.02(2),(10) Case #LS0003274AUC

RILEY R KAHL

VERONA WI

SUSPENDED

As an employee of George Auction Service he assisted in removing cattle from a farm. He pushed an owner of the farm

causing her to lose her balance and strike a hard object in the barn while she was objecting to the cattle being removed. Suspended 3 months. Effective 6/1/2000. Sec. 427.104(1)(a),(h), Stats. RL 124.02(2) Case #LS0005221AUC

CHARLES A FANDRICH

PORTAGE WI

REPRIMAND/FORFEITURES

Failed to enter into a written contract with each owner or consignor of goods. Failed to provide within 30 days after the auction an accounting of all moneys due to each owner or consignor the proceeds due from the auction. Failed to maintain complete and accurate records of the auction. Failed to state in an advertisement for the auction the percentage or other amount of any buyer's premium or surcharge which is a condition of sale. Utilized a bidding method for a tractor which was misleading and deceptive. Effective 3/27/2000. Secs. 480.14(1),(3)(a),(b), 480.18(1),(3), Stats. RL 123.03(5), 124.02(5), 126.02(6) Case #LS0003273AUC

RANDY J BACKES

WATERLOO IA

SUSPENDED

Indicated on his renewal application that he had passed the test out exam in satisfaction of the continuing education requirement for the 1997-1998 biennium. At the time he submitted his renewal application, he did not fully understand the requirements for renewal. Suspended indefinitely until he completes the exam. Effective 3/27/2000. Sec. 480.24(2)(a), Stats. RL 128.02 Case #LS0002232AUC

RODNEY A BACKES

WATERLOO IA

SUSPENDED

Indicated on his renewal application that he had passed the test out exam in satisfaction of the continuing education requirement for the 1997-1998 biennium. At the time he submitted his renewal application, he did not fully understand the requirements for renewal. Suspended indefinitely until he completes the exam. Sec. 480.24(2)(a), Stats. RL 126.02(10), 128.02 Case #LS0002233AUC

THOMAS C BLACKMON

LITTLE ROCK AR

SURRENDER

Did not complete the continuing education requirement for the 1997-1998 biennium, nor has he taken the education exam conducted in lieu of the continuing education. At the time of his renewal application, he did not fully understand the requirements for renewal and did not intend to mislead the board. Effective 3/27/2000. Sec. 480.24(2)(a),(j), Stats. RL 128.02 Case #LS0002234AUC

MARK A BURRIS

SHULLSBURG WI

SURRENDER

Indicated on his renewal application that he had passed the test out exam in satisfaction of the continuing education requirement for the 1997-1998 biennium. At the time he submitted his renewal application, he did not fully understand the requirements for renewal and did not intend to mislead the board. Effective 3/27/2000. Sec. 480.24(2)(a), Stats. RL 126.02(10) Case #LS0002235AUC

DENNIS L PINNO

BEAR CREEK WI

SUSPENDED

Did not complete required continuing education courses for the 1997-1998 biennium, nor has he taken the education examination conducted in lieu of the continuing education requirements. At the time he submitted his renewal application, he did not fully understand the requirements for renewal. Suspended indefinitely until he completes the examination. Effective 3/27/2000. Sec. 480.24(2)(a), Stats. RL 126.02(1), 128.02 Case #LS0002236AUC

Department of Regulation and Licensing
Auctioneers and Auction Companies
P.O. Box 8935
Madison, WI 53708-8935

RETURN SERVICE REQUESTED

REGULATORY DIGEST

Bulk Rate
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Telephone Directory

The Division of Business Licensure & Regulation has a menu telephone system which is designed to more efficiently direct the caller to the appropriate section. The telephone number for staff is:

(608) 266-5511

After dialing this number you are asked to press 1, 2, 3 or 4. For the following requests, please press extension numbers as noted:

Application Forms	Ext. 11
Complaints Against Licensees	Ext. 12
Application Processing & Requirements	Ext. 43
Whether A Person Is Registered	Ext. 442
Fax Number (608) 267-3816	

Board Meetings

September 25, December 11

Verifications

Requests for verifications of license, sent to other states must be in writing. **The cost is \$10.** Please make out check or money order to the Department of Regulation and Licensing.

Visit the Department's Web Site

<http://www.drl.state.wi.us/>

Send e-mail comments to dorl@drl.state.wi.us

Wisconsin Statutes and Code

Copies of the "Statutes and Administrative Code Relating to the Practice of Auctioneers and Auction Companies" can be ordered from the Department.

G:newsletters/auctioneers/0900.doc

Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated August 1999.

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Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes is not automatically provided.

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